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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,708	05/12/2005	Henrik Jacobsen	HOI-12702/16	1399
25006	7590	07/27/2007	EXAMINER	
GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C			ABBOTT, YVONNE RENEE	
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			07/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/524,708	<b>Applicant(s)</b> JACOBSEN, HENRIK	
	<b>Examiner</b> Yvonne R. Abbott	<b>Art Unit</b> 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,8,11,14,16,17,19,21,22,24,25,27,32,33,35,37,38,47 and 48 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,8,11,14,16,17,19,35,37,38 and 47 is/are rejected.
- 7) ☒ Claim(s) 21,22,24,25,27,32,33 and 48 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                  |                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                      | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                             | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/15/05</u> . | 6) <input type="checkbox"/> Other: ____.                                                |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 37,38 and 47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 37, the phrase "and the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "and the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d). Regarding claim 47, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 8, 11, 14, 16, 17, 19, 35,37,38,47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gill et al. (6247619) in view of Loulias (5188266) and further in view of Cole (5566645). Gill et al. show a portable device for oral

administration of a fluid source to an animal, said device comprising a hollow, plastic, axially-elongated member comprising a) a distal end comprising a first opening, preferably in the form of a nozzle portion which appears to be of a shape and size (short proximity between it and handle/valve) that would be inhibited from insertion into a trachea, and b) a proximal end comprising a second opening connected to ii) a handle (21) which is hollow (to the extent that tubing passes therethrough and comprising a) a distal portion connecting the handle to said axially-elongated member, and b) a proximal portion connecting the handle to iii) a flexible tube (20) comprising a) a distal end comprising a first opening connected to the handle, and b) a proximal end comprising a second opening connected to iv) a hollow adaptor (30) capable of attaching the flexible tube to a fluid source container (1), said adaptor comprising a) a distal end comprising a first opening, said distal end capable of securing attachment of said adaptor to the tubing, and b) a proximal end comprising a second opening, said proximal end capable of bringing the adaptor in contact with the fluid source stored in v) said device further comprising a mechanism (21) in the handle for regulating the flow of liquid through the axially-elongated member, wherein the fluid source of the device is stored in a container insert in the form of a flexible polymer bag (9), said container insert being arranged in the fluid source container fitted to holding said container insert, said fluid source container comprising a) at least one attachment site capable of securing the attachment of the container to the adaptor, and b) means (Fig. 4) for transporting the device by the operator. Gill, however, does not disclose that the flow controlling mechanism is a switch, or that the insert is disposable. Loulias teaches

a portable beverage container comprising removable, disposable insert containers (50) made of plastic. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that the bag of Gill et al. be disposable as taught by Loulias (col.5, lines 13-19) that disposable bags eliminates the necessity for cleaning the inside of the insert vessel after use which can be difficult. Cole teaches that various alternative valve mechanisms could be used to control the flow of liquid, wherein the device (140) can have a switch (146) which operates the control mechanism to control the valve. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a control mechanism with a switch as taught by Cole in order to provide remote operation of the apparatus; further with respect to claim 17 a slide valve is also considered an alternate equivalent means of regulating flow that would have been obvious. As to claim 11, the specific length of the axially elongated member would have been obvious to one wishing to accommodate the user's needs (a longer member is shown in Fig. 7). With respect to claims 35, 37, 38 and 47, the device is capable of being used to dispense various liquids to the user (water, aqueous solutions or electrolytes such as in a sports drink, or colostrums that is known to build immunity in some newborn animals.

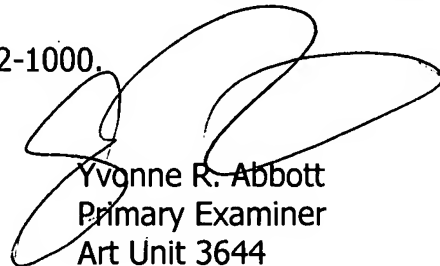
***Allowable Subject Matter***

3. Claims 21,22,24,25,27,32,33 and 48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (571) 272-6896. The examiner can normally be reached on Monday-Thursday 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on (571) 272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Yvonne R. Abbott  
Primary Examiner  
Art Unit 3644